

BOARDS AND COMMISSIONS
Board of Nursing
(New Administrative Regulation)

201 KAR 20:478. Dialysis technician scope of practice, discipline, and miscellaneous requirements.

RELATES TO: KRS 314.021, 314.035, 314.089, 314.091, 314.103, 314.137, 314.991

STATUTORY AUTHORITY: KRS 314.131(1), 314.137

NECESSITY, FUNCTION AND CONFORMITY: KRS 314.137 requires the board to promulgate administrative regulations to regulate dialysis technicians. This administrative regulation establishes the scope of practice and disciplinary procedures for dialysis technicians.

Section 1. Scope of Practice. (1) The scope of practice of a dialysis technician shall include the following and shall be performed under the direct, on-site supervision of a registered nurse, an advanced practice registered nurse, a physician, or a physician's assistant:

(a) Preparation and cannulation of peripheral access sites (arterial-venous fistulas and arterial-venous grafts);

(b) Initiating, delivering, or discontinuing dialysis care;

(c) Administration of the following medications only:

1. Heparin 1:1000 units or less concentration either to prime the pump, initiate treatment, or for administration throughout the treatment, in an amount prescribed by a physician, physician's assistant, or advanced practice registered nurse. The dialysis technician shall not administer heparin in concentrations greater than 1:1000 units;

2. Normal saline via the dialysis machine to correct dialysis-induced hypotension based on the facility's medical protocol. Amounts beyond that established in the facility's medical protocol shall not be administered without direction from a registered nurse or a physician; and

3. Intradermal lidocaine, in an amount prescribed by a physician, physician's assistant, or advanced practice registered nurse;

(d) Assistance to the registered nurse in data collection;

(e) Obtaining a blood specimen via a dialysis line or a peripheral access site;

(f) Responding to complications that arise in conjunction with dialysis care; and

(g) Performance of other acts as delegated by the registered nurse pursuant to 201 KAR 20:400.

(2) The scope of practice of a dialysis technician shall not include:

(a) Dialysis care for a patient whose condition is determined by the registered nurse to be critical, fluctuating, unstable, or unpredictable;

(b) The connection and disconnection of patients from, and the site care and catheter port preparation of, percutaneously or surgically inserted central venous catheters; and

(c) The administration of blood and blood products.

Section 2. Discipline of a Dialysis Technician. (1) The board shall have the authority to discipline a dialysis technician (DT) or a dialysis technician applicant (DTA) for:

(a) Failure to safely and competently perform the duties of a DT or DTA as established in this administrative regulation;

(b) Practicing beyond the scope of practice as established in this administrative regulation;

(c) Conviction of any felony, or a misdemeanor involving drugs, alcohol, fraud, deceit, falsification of records, a breach of trust, physical harm or endangerment to others, or dishonesty under the laws of any state or of the United States. The record of conviction or a copy thereof,

certified by the clerk of the court or by the judge who presided over the conviction, shall be conclusive evidence;

- (d) Obtaining or attempting to obtain a credential by fraud or deceit;
 - (e) Abusing controlled substances, prescription medications, or alcohol;
 - (f) Use, or impairment as a consequence of use, of alcohol or drugs while on duty as a dialysis technician, dialysis technician trainee, or dialysis technician applicant;
 - (g) Possession or use of a Schedule I controlled substance;
 - (h) Personal misuse or misappropriation for use of others of any drug placed in the custody of the DT or DTA for administration;
 - (i) Falsifying or in a negligent manner making incorrect entries or failing to make essential entries on essential records;
 - (j) Having a dialysis technician credential disciplined by another jurisdiction on grounds sufficient to cause a credential to be disciplined in this Commonwealth;
 - (k) Practicing without filing an Application for Dialysis Technician Credential or without holding a dialysis technician credential;
 - (l) Abuse of a patient;
 - (m) Theft of facility or patient property;
 - (n) Having disciplinary action on a professional or business license;
 - (o) Violating any lawful order or directive previously entered by the board;
 - (p) Violating any applicable requirement of KRS Chapter 314 or 201 KAR Chapter 20;
 - (q) Having been listed on the nurse aide abuse registry with a substantiated finding of abuse, neglect, or misappropriation of property; or
 - (r) Having violated the confidentiality of information or knowledge concerning any patient, except as authorized or required by law.
- (2) The discipline may include the following:
- (a) Immediate temporary suspension of the credential, following the procedure established in KRS 314.089;
 - (b) Reprimand of the credential;
 - (c) Probation of the credential for a specified period of time, with or without limitations and conditions;
 - (d) Suspension of the credential for a specified period of time;
 - (e) Permanent revocation of the credential; or
 - (f) Denying the Application for Dialysis Technician Credential.
- (3) The board shall follow the procedures established in and have the authority established in KRS 314.091, 201 KAR 20:161, and 201 KAR 20:162 for management and resolution of complaints filed against a dialysis technician.
- (4) In addition to the provisions of subsection (3) of this section, the board may impose a civil penalty of up to \$10,000.

Section 3. Miscellaneous Requirements. (1) Any person credentialed by the board as a dialysis technician shall maintain a current mailing address and email address with the board and immediately notify the board in writing of a change of mailing address or email address.

(2)(a) Holding a credential shall constitute consent by the dialysis technician to service of notices or orders of the board. Notices and orders shall be sent to the mailing address on file with the board.

(b) Any notice or order of the board mailed or delivered to the mailing address on file with the board shall constitute valid service of the notice or order.

(3) Any dialysis technician credentialed by the board shall, within ninety (90) days of entry of the final judgment, notify the board in writing of any misdemeanor or felony conviction in this or any other jurisdiction.

(4) Any dialysis technician credentialed by the board shall, within ninety (90) days of entry of a sanction specified in this subsection, notify the board in writing if any professional or business license that is issued to the person by any agency of the commonwealth or any other jurisdiction:

(a) Is surrendered or terminated under threat of disciplinary action;

(b) Is refused, limited, suspended, or revoked; or

(c) If renewal is denied.

(5) If the board has reasonable cause to believe that any DT or DTA is unable to practice with reasonable skill and safety or has abused alcohol or drugs, it shall require the person to submit to a substance use disorder evaluation or a mental or physical examination by a board approved practitioner.

(a) Holding a credential shall constitute:

1. Consent by the dialysis technician to a substance use disorder evaluation, mental examination, or physical examination if directed in writing by the board. The direction to submit to an evaluation or examination shall contain the basis for the board's concern that the technician is unable to practice safely and effectively; and

2. Waiver of objections to the admissibility of the examining practitioner's testimony or examination reports on the grounds of privileged communication.

(b) The dialysis technician shall bear the cost of substance use disorder evaluation, mental examination, or physical examination ordered by the board.

(c) Upon failure of the dialysis technician to submit to a substance use disorder evaluation, mental examination, or physical examination ordered by the board, unless due to circumstances beyond the person's control, the board shall initiate an action for immediate temporary suspension pursuant to KRS 314.089 or deny an application until the person submits to the required examination.

(d) If a substance use disorder evaluation, mental examination, or physical examination pursuant to this subsection results in a finding that indicates that the dialysis technician is unable to practice with reasonable skill and safety or has abused alcohol or drugs, the dialysis technician shall be subject to disciplinary procedures as established in this administrative regulation.

(6) Due process procedures, including appeal, pertaining to this administrative regulation shall be conducted in accordance with KRS Chapter 13B.

JESSICA WILSON, President

APPROVED BY AGENCY: April 15, 2021

FILED WITH LRC: May 18, 2021 at 1:10 p.m.

PUBLIC HEARING AND PUBLIC COMMENT PERIOD: A public hearing on this administrative regulation shall be held on Monday, August 23, 2021 at 10:00 a.m. (EDT) in the office of the Kentucky Board of Nursing, 312 Whittington Parkway, Suite 300, Louisville, Kentucky. Individuals interested in being heard at this hearing shall notify this agency in writing five workdays prior to the hearing of their intent to attend. If no notification of intent to attend the hearing is received by that date, the hearing may be canceled. This hearing is open to the public. Any person who wishes to be heard will be given an opportunity to comment on the proposed administrative regulation. A transcript of the public hearing will not be made unless a written request for a transcript is made. If you do not wish to be heard at the public hearing, you may submit written comments on the proposed administrative regulation. Written comments shall be accepted until end of day (11:59 p.m., EDT) Tuesday, August 31, 2021. Send written notifi-

cation of intent to be heard at the public hearing or written comments on the proposed administrative regulation to the contact person.

CONTACT PERSON: Morgan Ransdell, Kentucky Board of Nursing, 312 Whittington Parkway, Suite 300, Louisville, Kentucky 40222, phone (502) 429-3339, email Morgan.Ransdell@ky.gov.

REGULATORY IMPACT ANALYSIS AND TIERING STATEMENT

Contact Person: Morgan Ransdell

(1) Provide a brief summary of:

(a) What this administrative regulation does: This administrative regulation establishes the scope of practice and disciplinary procedures for dialysis technicians (DTs).

(b) The necessity of this administrative regulation: This regulation is necessary pursuant to KRS 314.137.

(c) How this administrative regulation conforms to the content of the authorizing statutes: This regulation conforms to the content of KRS 314.137 by regulating scope of practice, discipline, and miscellaneous requirements applicable to DTs.

(d) How this administrative regulation currently assists or will assist in the effective administration of the statutes: This regulation will assist in the effective administration of KRS 314.021, as amended effective June 30, 2021, and KRS 314.137, by regulating scope of practice, discipline, and miscellaneous requirements applicable to DTs.

(2) If this is an amendment to an existing administrative regulation, provide a brief summary of:

(a) How the amendment will change this existing administrative regulation: This regulation requires that DT notify the board of a current email address, but does not otherwise substantively alter DT scope of practice or disciplinary procedures.

(b) The necessity of the amendment to this administrative regulation: The repeal of 201 KAR 20:470, in conjunction with the promulgation of four new regulations that address the same subjects, complies with KRS 13A.221 by addressing separate topics related to DTs in four separate administrative regulations.

(c) How the amendment conforms to the content of the authorizing statutes: The regulation conforms to the content of the authorizing statutes, KRS 314.131(1) and KRS 314.137, by establishing appropriate standards for DT credentialing, in order to protect and safeguard the health and safety of the citizens of the Commonwealth of Kentucky.

(d) How the amendment will assist in the effective administration of the statutes: The regulation will assist in the effective administration of KRS 314.021 and KRS 314.137, by establishing standards for DT credentialing.

(3) List the type and number of individuals, businesses, organizations, or state and local governments affected by this administrative regulation: As of April 8, 2021, there were 712 dialysis technicians with a current and active Kentucky DT credential. The Kentucky Board of Nursing and all current and future DT credential holders will all be affected by the repeal of 201 KAR 20:470 and the promulgation of 201 KAR 20:478, as DTs will now be required to provide and maintain a current email address.

(4) Provide an analysis of how the entities identified in question (3) will be impacted by either the implementation of this administrative regulation, if new, or by the change, if it is an amendment, including:

(a) List the actions that each of the regulated entities identified in question (3) will have to take to comply with this administrative regulation or amendment: DTs will now be required to provide and maintain a current email address.

(b) In complying with this administrative regulation or amendment, how much will it cost each of the entities identified in question (3): No additional costs will result from the promulgation of 201 KAR 20:478.

(c) As a result of compliance, what benefits will accrue to the entities identified in question (3): Compliance with 201 KAR 20:478 allows DT trainees to lawfully maintain employment in the DT role and exercise their due process rights in disciplinary proceedings.

(5) Provide an estimate of how much it will cost the administrative body to implement this administrative regulation:

(a) Initially: The agency expended \$26,446.02 for the DT program in FY2020. The FY2021 budget for the DT program is \$26,600, and \$25,331.69 has been expended associated with the DT program to date in the current fiscal year. Board staff anticipates a similar level of expenditure in FY2022, with no additional costs specifically related to the implementation of 201 KAR 20:478.

(b) On a continuing basis: Board staff anticipates that DT program expenditures will rise from a baseline cost of \$26,600 in future years, as personnel costs rise; however, the precise impact of possible personnel cost increases have not been determined. No ongoing costs are anticipated specifically with regard to implementation of 201 KAR 20:478.

(6) What is the source of the funding to be used for the implementation and enforcement of this administrative regulation: Fees paid by DTs and DT training programs are the primary source of funding for implementation of 201 KAR 20:478.

(7) Provide an assessment of whether an increase in fees or funding will be necessary to implement this administrative regulation, if new, or by the change if it is an amendment: No DT fee increases are anticipated in the foreseeable future as a consequence of implementation of 201 KAR 20:478.

(8) State whether or not this administrative regulation established any fees or directly or indirectly increased any fees: This administrative regulation does not directly or indirectly increase fees.

(9) TIERING: Is tiering applied? Tiering was not applied to 201 KAR 20:478, as the regulation treats all DTs similarly.

FISCAL NOTE ON STATE OR LOCAL GOVERNMENT

(1) What units, parts, or divisions of state or local government (including cities, counties, fire departments, or school districts) will be impacted by this administrative regulation? The Kentucky Board of Nursing.

(2) Identify each state or federal statute or federal regulation that requires or authorizes the action taken by the administrative regulation. KRS 314.131 and KRS 314.137.

(3) Estimate the effect of this administrative regulation on the expenditures and revenues of a state or local government agency (including cities, counties, fire departments, or school districts) for the first full year the administrative regulation is to be in effect.

(a) How much revenue will this administrative regulation generate for the state or local government (including cities, counties, fire departments, or school districts) for the first year? The agency expended \$26,446.02 for the DT program in FY2020. The FY2021 budget for the DT program is \$26,600, and \$25,331.69 has been expended associated with the DT program to date in the current fiscal year. Board staff anticipates a similar level of expenditure in FY2022, with no additional costs specifically related to the implementation of 201 KAR 20:478.

(b) How much revenue will this administrative regulation generate for the state or local government (including cities, counties, fire departments, or school districts) for subsequent years? Board staff anticipates that DT program expenditures will rise from a baseline cost of \$26,600

in future years, as personnel costs rise; however, the precise impact of possible personnel cost increases have not been determined. No ongoing costs are anticipated specifically with regard to implementation of 201 KAR 20:478.

(c) How much will it cost to administer this program for the first year? The agency expended \$26,446.02 for the DT program in FY2020. The FY2021 budget for the DT program is \$26,600, and \$25,331.69 has been expended associated with the DT program to date in the current fiscal year. Board staff anticipates a similar level of expenditure in FY2022.

(d) How much will it cost to administer this program for subsequent years? Board staff anticipates that DT program expenditures will rise from a baseline cost of \$26,600 in future years, as personnel costs rise; however, the precise impact of possible personnel cost increases have not been determined.

Note: If specific dollar estimates cannot be determined, provide a brief narrative to explain the fiscal impact of the administrative regulation.

Revenues (+/-):

Expenditures (+/-):

Other Explanation: No significant changes in agency revenues or expenditures are anticipated specifically with regard to the promulgation and implementation of 201 KAR 20:478.